

February 21, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L05P0007**
Proposed Ordinance No. **2007-0050**

TALBOT RIDGE ESTATES
Preliminary Plat Application

Location: At the southwestern corner of the 102nd Avenue Southeast and
Southeast 192nd Street intersection, Renton

Applicant: Belmont Homes, Inc.
represented by **Cliff Williams**
P.O. Box 2401
Kirkland, Washington 98083-2401
Telephone: (425) 893-8478

King County: Department of Development and Environmental Services (DDES)
represented by **Trishah Bull**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-6758
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:
Department's Final Recommendation:
Examiner's Decision:

Approve subject to conditions
Approve subject to revised conditions
Approve subject to revised conditions

EXAMINER PROCEEDINGS:

Hearing Opened: January 30, 2007
Hearing Closed: January 30, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information:**

Owner/Developer: Robert Wenzl
Belmont Homes, Inc.
PO Box 2401
Kirkland, WA 98083-2401
425-893-8478

Engineer: Core Design
14711 NE 29th Place, #101
Bellevue, WA 98007
425-885-7877

STR: NW 5-22-5

Location: The property is located at the southwest corner of the 102nd Avenue SE and SE 192nd Street intersection.

Zoning: R-6-SO
Acreage: 4.36
Number of Lots: 27
Density: 6.2 units per acre
Lot Size: Ranges from approximately 3,200 to 5,850 square feet
Proposed Use: Single-family detached dwellings
Sewage Disposal: Soos Creek Water and Sewer District
Water Supply: Soos Creek Water and Sewer District
Fire District: King County District No. 37
School District: Kent School District No. 415

Application completeness date: March 24, 2005

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation (KCDOT) testimony are found to be correct and are incorporated herein by reference.
3. The subject property is a near-rectangular parcel, 4.3 acres in area, located in the unincorporated County just south of the Renton city limits, in the southwest corner of the intersection of 102nd Avenue Southeast and Southeast 192nd Street (aka South 55th Street in the City of Renton street grid system). The property is located in the Springbrook Creek tributary area of the Black River sub-basin of the Lower Green River basin. The site terrain consists of a descent to the west from the 102nd Avenue Southeast frontage; the descent begins with gentle grades and becomes increasingly steep toward the west property line, although in the northwest corner of the site the

slopes remain moderate. The site is mostly wooded with a second and third-growth mix of coniferous and deciduous trees native to the Pacific Northwest. Second-story vegetation and groundcover consists of typical Northwest native species. No defined critical areas such as streams, wetlands, and landslide or erosion hazard areas are found on the site or in close proximity. The property is undeveloped structurally. The surroundings of the site are developed with single-family residences.

4. Applicant Belmont Homes, Inc., proposed subdivision of the property into 27 lots for detached single-family dwellings, as well as separate tracts for recreation/open space and drainage detention, and for three private lot access tracts. The development will provide onsite recreation facilities consisting of a recreation area with a tot lot, sport court and play equipment, and pedestrian trails. Public road access would be provided by the extension of a cul-de-sac road due westerly from 102nd Avenue Southeast to terminate in the west central portion of the site with an offset bulb. No direct vehicular access would be provided to fronting roads; the King County Road Standards (KCRS) require that lot access be taken from the most minor road frontages of a lot, which in this case will require that access for Lots 1, 18 and 24-27 be taken from either the internal cul-de-sac road or the pertinent private road access tract, not directly from 102nd Avenue Southeast or Southeast 192nd Street.
5. The lot density would be approximately 6.2 units per acre, slightly above the basic six units per acre normally permitted under the assigned R-6 zoning of the property through the authorized use of two dwelling unit density credits transferred pursuant to the Transfer of Development Rights (TDR) provisions of Chapter 21A.37 KCC.
6. The current property drainage consists of sheetflow overland to the west boundary, downslope from the property's road frontage on 102nd Avenue Southeast. The proposed stormwater management plan is to collect the sheetflow and divert it from its natural outlets toward Southeast 192nd Street to a drainage detention vault in the northwest corner of the site. The release from the detention vault will be subject to the Conservation flow control limits and Basic water quality requirements of the 2005 King County Surface Water Design Manual (KCSWDM), and will be conveyed in roadside ditching westerly along Southeast 192nd Street down to Springbrook Creek. A stormwater adjustment has been granted under file L05V0061 for the drainage diversion from its natural sheetflow off the property.
7. Due to the onsite soils, the development will be subject to stringent geotechnical review conditions.
8. Traffic impacts of the proposed development will be adequately mitigated under applicable County code requirements as proposed. The development has been granted a traffic Certificate of Concurrency under Chapter 14.70 KCC. The development is also subject to the standard collection of MPS mitigation fee payments under Chapter 14.75 KCC, which apply to each dwelling unit. No intersection-standard mitigation under Chapter 14.80 KCC is required given the traffic levels generated by the development and the absence of High Accident Locations (HAL) affected by the development's traffic. Sight distance improvements are needed for the intersection of Southeast 192nd Street and 102nd Avenue Southeast, affected by the development's traffic. A road standards variance has been granted under file L05V0066 for the intersection, which variance still requires significant frontage improvements along Southeast 192nd Street beyond the standard curb, gutter and sidewalk improvements, including road

widening and reconfiguration of the road geometry, including lowering of the road surface and superelevation of the curvature to better meet the design speed standards for the roadway.

9. The development's resident public schoolchildren will be bused to their respective schools from a bus stop at the southeast corner of the Southeast 192nd Street/102nd Avenue Southeast intersection. The internal road/walkway improvements and the frontage improvements on 102nd Avenue Southeast will provide safe walking conditions to the bus stop area, which is graveled and sufficient for pedestrian safety while children wait for their school buses.
10. The King County Fire Marshal has recently instituted a more assertive program of fire suppression rules applied to development, wherein if road widths are provided as narrow as the 1993 KCRS permit as minimums, then individual structures may be subject to individual fire sprinkling requirements at the residential building permit stage. The matter is therefore left to post-preliminary plat consideration by the Applicant in deliberating the relative viability of those alternatives, and any agreements which may ensue from discussions with the appropriate fire officials. The Applicant in this case is contemplating providing increased road widths, which can be accommodated within the development without significant changes to the basic lot layouts.
11. Former Chapter 21A.38 KCC's special overlay requirement SO-220 (Significant Tree Overlay) applies to the property. The Significant Tree Overlay standards require the development to retain a percentage of the significant trees onsite. To implement former KCC 21A.38.230, a detailed tree retention plan must be submitted with the engineering plans for the subdivision.
12. Neighboring and nearby property owners expressed concern about the legitimacy of the established R-6 zoning of the area. The Examiner is without authority to revisit the zoning, which apparently was imposed on a legislative basis in the mid-1990's to implement the Growth Management Act (GMA) when the subject area was included within the Urban Growth Area (UGA). (Despite an assertion that the subject area is a "rural" area, it is within an area undergoing urbanization within the UGA pursuant to the GMA.) Concern was also expressed regarding the maintenance of wildlife travel corridors in the area and the potential for urban development to block off such travel corridors, limiting wildlife choices and diverting wildlife travel down into the erosion-sensitive Springbrook Creek corridor. The subject property is not designated as significant wildlife habitat or a wildlife migration corridor, and there is no regulatory means of preserving any wildlife corridor onsite. The Examiner notes, however, that the western 20 percent of the site, approximately, will be preserved as unfenced open space through which wildlife could travel.
13. The City of Renton requests that the development be required to be improved under City of Renton development standards, given the potential for the property's annexation into the City. Given the absence of a pertinent Interlocal Agreement (ILA) which calls for the County to do so, the County is without authority to impose City of Renton development standards in the instant case.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-6-SO zone.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on August 24, 2005, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Talbot Ridge Estates* subdivision, as revised and received August 24, 2005, is approved subject to the following conditions of approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the density requirements of the R-6-SO zone classification. All lots shall meet the minimum dimensional requirements of the R-6-SO zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant shall provide the TDR certificate with the submittal of the engineering plans and the final plat. If the TDR certificate cannot be obtained, the applicant shall redesign the number of lots based upon the allowable density. This will result in the reconfiguration and loss of lots.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 of the King County Code.

7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

“All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file.”
 - d. The stormwater facilities for this site shall be designed to meet at a minimum the Conservation Flow Control and Basic Water Quality requirements in the 2005 King County Surface Water Design Manual (KCSWDM).

A Surface Water Drainage Adjustment (L05V0061) is approved for this site. All conditions of approval for this adjustment shall be met prior to approval of the engineering plans.
 - e. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.
8. The applicant's geotechnical engineer shall provide recommendations for the design and construction of the road, onsite grading and compaction, drainage detention vault, and any required retaining walls. The geotechnical recommendations shall be included in the TIR and incorporated into the design with submittal of the engineering plans.

9. Special geotechnical construction inspection of the road improvements, onsite grading and compaction, drainage detention vault, and any required retaining walls is required to ensure compliance with the geotechnical recommendations. Daily inspection reports shall be submitted to the assigned Land Use Inspector during the construction phases of those facilities. A final construction report shall be submitted verifying compliance with the geotechnical recommendations. Notes requiring the above shall be shown on the engineering plans.
10. Geotechnical engineer review of the future home foundation construction is required. Notes to this effect shall be shown on the engineering plans and the final plat.
11. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. Road A shall be improved at a minimum to the urban subaccess street standard, with a cul-de-sac at the west end. If Road A is improved with only a 24-foot roadway width, then it shall be signed “No Parking” on both sides of the road.
 - b. FRONTAGE: The frontage along 102nd Ave SE shall be improved at a minimum to the urban neighborhood collector street standard (west side). The design shall require compliance with Section 4.01(f) of the KCRS; asphalt overlay when widening.
 - c. FRONTAGE: The frontage along SE 192nd Street shall be widened and lowered, as approved by DDES and in compliance with the conditions of approval for Road Variance L05V0066. The frontage shall be widened to the urban neighborhood collector standard on the south side. The road lowering is required to improve the entering and stopping sight distance at the SE 192nd Street/102nd Ave SE intersection. Details of this improvement shall be shown on the engineering plans and routed to KCDOT for approval.
 - d. The proposed private access tract and joint use driveways shall comply with Sections 2.09 and 3.01 of the KCRS, unless otherwise approved by DDES. These tracts shall be owned and maintained by the lot owners served. Notes to this effect shall be showed on the engineering plans and the final plat.
 - e. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
12. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
13. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

14. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
15. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
16. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., area calculations, dimensions, landscape specifications, equipment specifications, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plan. This plan must not conflict with the Significant Tree Inventory & Mitigation Plan.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
17. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
18. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any

other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.

- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if SE 192nd Street and/or 102nd Avenue SE are on a bus route. If SE 192nd Street and/or 102nd Avenue SE are a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
19. To implement SO-220 pursuant to former KCC 21A.38.230, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention and engineering plans shall be consistent with the requirements of SO-220. No clearing of the site is permitted until the tree retention plan is approved by DDES. Flagging and temporary fencing of trees to be retained shall be provided, consistent with SO-220. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except as may be permitted under the provisions of SO-220.
- A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with KCC 21A.38.230(B)(6). The tree retention plan shall be included as part of the final engineering plans for the subject plat.
20. In the event that any archaeological objects are uncovered on the site, the applicant shall comply with RCW Chapter 27.53, Archaeological Sites and Resources. Immediate notification and consultation with the State Office of Archaeology and Historical Preservation, King County Office of Cultural Resources and relevant tribes (including the Suquamish, Puyallup and Muckleshoot tribes) is required if discovered materials are prehistoric and a site is present.
21. All future residences constructed within this subdivision are required to be sprinkled NFPA 13D unless the requirement is removed by the King County Fire Marshal or his/her designee. The Fire Code requires all portions of the exterior walls of structures to be within 150 feet (as a person would walk via an approved route around the building) from a minimum 20-foot wide, unobstructed driving surface. To qualify for removal of the sprinkler requirement driving surfaces between curbs must be a minimum of 28 feet in width when parking is allowed on one side of the roadway, and at least 36 feet in width when parking is permitted on both sides.

Additionally, minimum 20-foot wide driving surfaces must be provided on Tracts A and B, and the driveway serving Lot 11; or residences constructed on Lot 11, and Lots 16 through 19 and 23 through 26 will have to be sprinkled.

ORDERED February 21, 2007.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED February 21, 2007 to the following parties and interested persons of record:

Robert E. Burton
19226 - 102nd Ave. SE
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City of Renton
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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before March 7, 2007***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before March 14, 2007***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JANUARY 30, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05P0007.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Trishah Bull, Bruce Whittaker and Kristen Langley representing the Department; Cliff Williams and Robert Stevenson representing the Applicant, and Robert Burton.

The following Exhibits were offered and entered into the record:

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| Exhibit No. 1 | Department of Development and Environmental Services file no. L05P0007 |
| Exhibit No. 2 | Department of Development and Environmental Services Preliminary Report, dated January 30, 2007 |
| Exhibit No. 3 | Application for Land Use Permits received March 24, 2005 |
| Exhibit No. 4 | SEPA Environmental checklist received March 24, 2004 |
| Exhibit No. 5 | SEPA Determination of Non-Significance issued January 12, 2007 |

- Exhibit No. 6 Affidavit of Posting indicating a posting date of July 12, 2005; received by DDES on July 13, 2005
- Exhibit No. 7 Preliminary plat map received August 24, 2005 (revised)
- Exhibit No. 8 Preliminary Storm Drainage Calculations and Level 1 Drainage Analysis by Core Design, received August 24, 2005 (revised)
- Exhibit No. 9 Preliminary Road & Grading Plan received August 24, 2005 (revised)
- Exhibit No. 10A Traffic Impact Analysis by Mirai Traffic Engineering & Planning, received March 24, 2005,
 - 10B Traffic Analysis Addendum, received August 24, 2005
- Exhibit No. 11 Geotechnical Engineering Study by GEO Group Northwest, Inc., received March 24, 2005
- Exhibit No. 12 Approved KCSWDM Adjustment L05V0061 dated November 17, 2005
- Exhibit No. 13 Approved KCRS Variance L05V0066 dated September 21, 2006
- Exhibit No. 14 Revised Fire Engineering Conditions for File no. L05P0007 dated 1/25/07
- Exhibit No. 15 Additional recommendation no. 21

PTD:ms
L05P0007 RPT